

Due to legislative actions, tax laws may change frequently. The following information is not all-inclusive and should not be used as a legal reference; it is provided as a reference tool for general guidance.

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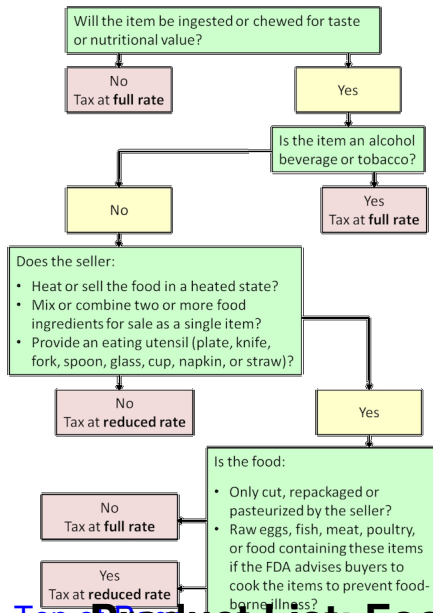
Applicable Legislation

General Session – [H.B. 109, Sales and Use Tax, Food and Food Ingredients](#)

Third Special Session – [H.B. 3004, Sales and Use Tax Relating to Food](#)

Grocery Food Sales Tax Flowchart

As of January 1, 2008, the statewide grocery food sales tax rate is 3 percent. The following flow chart will help you decide what should be taxed at this lower rate.



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Product Description	Food	Non-Food/
Prepared Food	Comments	
Breath Mints	x	Nutritional or supplement
Chicken meal deal		x Example: 8 pieces/salad/
Deli meats by weight	x	Cut and repackaged by s
Deli salad by size or weight	x	If utensils* are not availab
Deli salsa by size or weight	x	Made in the store
Deli sandwich by weight		x If made by seller
Donuts without utensils*	x	If utensils* are not availab
Hot French bread	x	
Ice, block		x Ice sold in blocks or dry ic
Ice, crushed	x	Ice sold by a food retailer
Ice, dry		x Ice sold in blocks or dry ic
Meat/cheese platter, set price		x
Meat/cheese platter, sold by weight		x
MEDICATIONS, over-the-counter		

Antacids	x	Drug fact box on label me
Anti-diarrhea	x	Drug fact box on label me
Anti-gas	x	Drug fact box on label me
Anti-smoking patches	x	Drug fact box on label me
Breath sprays	x	Drug fact box on label me
Breath strips	x	Drug fact box on label me
Cough drops	x	Drug fact box on label me
Ear drops	x	Drug fact box on label me
Epson salts	x	
Eye drops	x	Drug fact box on label me
Laxatives	x	Drug fact box on label me
Medication for hair loss	x	Drug fact box on label me
Motion sickness	x	Drug fact box on label me
Nasal sprays	x	Drug fact box on label me
Oral antismoking	x	Drug fact box on label me
Pain/headache	x	Drug fact box on label me
Sleep aid	x	Drug fact box on label me
Throat sprays	x	Drug fact box on label me
Mixed fruit tray, price per tray	x	
Mixed fruit tray, sold by weight	x	
Nutritional supplements	x	Nutritional or supplementa
Pam (non-stick spray for pans)		
Pet food	x	
Produce plastic bags or mesh bags with twist ties		Retailer buys tax exempt

Pumpkin seeds	x		If packaged for eating
Rock salt		x	Rock salt is less pure and
Salad bar sold by weight	x		If utensils* are not availab
Self-serve fountain drinks		x	16, 32, 48 oz. cups
Shiskabobs made in store	x		Raw meat
Store-dyed Easter eggs	x		
Sunflower seeds	x		If packaged for eating
Toothpaste		x	Drug fact box on label me
Vaporizer/humidifier		x	Drug fact box on label me
Vegetable garden seeds		x	
Vitamins	x		Nutritional or supplementa
Vitamins for hair loss	x		Nutritional or supplementa
Water, bottled (including flavored)			
Water, distilled	x		

*Utah Code 59-12-102(66) defines utensils as a plate, knife, fork, spoon, glass, cup, napkin or straw.

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Examples

Example #1:

You sell milk and bread to a customer. These items are grocery food so you collect tax at the grocery food rate (3 percent) at checkout.

Example #2:

You sell milk, bread and clothing in one transaction. The milk and bread are grocery food, but the clothing is not. You collect tax at the grocery food rate (3 percent) on the grocery food and the combined sales tax rate at your location for the clothing.

See tax.utah.gov/sales/rates.html for current rates.

Example #3:

You prepare and sell a fruit basket in a wicker basket as one item. The fruit is grocery food, but the wicker basket is not.

Sales of two or more grocery food and non-food items combined products sold for one price are bundled transactions.

You collect the full combined sales tax rate at your location on the whole fruit basket.

See tax.utah.gov/sales/rates.html for current rates.

Example #4:

You sell a combo meal that includes a sandwich, chips and drink.

The combo meal is prepared food sold for one price as a bundled transaction. You collect the full combined sales tax rate at your location (plus the restaurant tax, if applicable).

See tax.utah.gov/sales/rates.html for current rates.

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Industry-Specific Examples

Bakery Items

Bakery items include the following if you sell them **without** providing eating utensils:

- Bagels
- Bars
- Biscuits
- Bread
- Buns
- Cakes
- Cookies
- Croissants
- Danishes
- Donuts
- Muffins
- Pastries
- Pies
- Rolls
- Tarts
- Tortes
- Tortillas

Examples:

- You own a bakery and sell donuts. You do not provide utensils so the food is taxed at the

reduced rate.

- You own a restaurant and sell a customer some of your rolls. These are grocery food items. Because the sale occurs in a restaurant, tourism tax applies on the transaction.

- If you sell the rolls **with utensils**, the rolls are prepared food taxed at the full combined rate plus tourism (restaurant) tax.

- If you sell the rolls **without utensils**, the rolls are grocery food taxed at the lower rate plus tourism (restaurant) tax.

Deli Inside a Store

Prepared food is:

- Food sold in a heated state or heated by a seller.
- Two or more food ingredients mixed or combined by a seller for a single sale.
- Food sold with an eating utensil provided by the seller (plate, knife, fork, spoon, glass, cup, napkin, straw, etc.).

Prepared food is not:

- food that a seller only cuts, repackages, or pasteurizes
- raw eggs, raw fish, raw meat, raw poultry, or a food containing these items if the Food and Drug Administration (FDA) advises buyers to cook the items to prevent food borne illness.

Examples:

You own a store with a self-serve salad bar and deli. You provide eating utensils for both the salad bar and deli. Your customer:

- Makes a salad at the salad bar. You weigh and price it at the cash register. This is prepared food taxed at the full rate. If you do not provide utensils, the salad is grocery food taxed at the lower rate (because it is unheated and sold by weight).
- Buys fried chicken and a pound of sliced cheese at your deli. The fried chicken is prepared

food taxed at the full rate. The sliced cheese is grocery food taxed at the lower rate because it was only cut and repackaged.

- Buys a pound of potato salad you made in your deli. The potato salad is prepared food taxed at the full rate. If you do not provide utensils, the potato salad is grocery food taxed at the lower rate (because it is unheated and sold by weight as a single item).

Vending Machine Sales

Answer the following four questions to determine the sales tax rate for a vended item:

1. What is the item? Vended items that cannot be ingested (nail clippers, combs, toys, etc.) are taxed at full rate.

2. Is the item heated by the seller? In part, prepared food is “sold in a heated state or heated by a seller.” If heated, the vended item is prepared food and taxed at the full rate.

3. Does the seller make utensils available to the buyer? A purchase is prepared food taxed at the full rate if you provide tables & chairs, condiments, a microwave, or utensils (plate, knife, fork, spoon, glass, cup, napkin, or straw) in the area near the vending machines.

4. Does the item have two or more food ingredients mixed by the seller? In part, prepared food is sold “with two or more food ingredients mixed or combined by the seller.”

Examples:

- Pack of gum from a vending machine – grocery food taxed at lower rate
- Bag of chips or can of soda – grocery food taxed at lower rate
- Pre-mixed cup of hot chocolate – prepared food taxed at full rate
- Slice of pizza you heat – prepared food (preheated) taxed at full rate
- Slice of pizza your customer heats – prepared food (two or more ingredients mixed by the seller) taxed at full rate
- Sandwich – prepared food (two or more ingredients mixed by the seller) taxed at full rate
- Vitamins and Food Supplements
- Vitamins and food supplements are grocery food taxed at the lower rate.

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Sales Tax: Full Rate and Reduced Rate Industry Chart

Effective January 1, 2007

Seller	Item	Sales Tax	
Rate	Restaurant		
Tax	4		
Grocery Store	Grocery food	Reduced	No
Non-food items	Full	No	
Salads prepared by seller	Full	1 No	
Salad bar with utensils	Full	1 No	
Salad bar, no utensils	Reduced	3 No	
Deli items (meat, salad) with utensils	Full	1 No	
Deli items (meat, salad) no utensils	Reduced	3 No	
Bakery items with utensils	Full	1 No	
Bakery items no utensils	Reduced	3 No	
Rotisserie items	Full	1 No	
Restaurant inside grocery store		1 ,	2 Yes
Food court inside store	Full	1 ,	2 Yes
2 Restaurant , stand alone	Prepared food	Full	1 ,
Grocery food	Reduced	3 Yes	
Candy bars, etc.	Reduced	3 Yes	
Edible Items Purchased			
in Restaurants	Purchase a pie, muffins, rolls, etc. from restaurant	3 No	3 Yes
	Purchase a pie, muffins, rolls, etc. from restaurant with utensils	1 Yes	
Bagel/Donut Shop	Bagels, donuts with napkin	Full	2 Yes
Prepackaged container of	Full cream cheese, milk or juice	1 Yes	1 With utensils
Prepackaged container of	Reduced cream cheese, milk or juice	3 Yes	3 With utensils
Convenience Store	Soft drinks in cooler	Reduced	3 No
Soft drinks from fountain	Full	1 ,	2 No

In-store restaurant (sandwich shop, etc.)	Full	1 ,	2 Yes
Grocery food	Reduced	3 No	
Hot dogs, burritos, etc.	Full	1 No	
Pizza	Delivered to customer's location	Full	1 Yes
Consumed at pizza restaurant	Full	1 ,	2 Yes
"Take & bake" cooked at home	Full	1 ,	2 No
2 Dinner Theater	All	Full	1 ,
2 Movie Theater	Fountain drinks	Full	1 ,
Candy bars	Reduced	No	
Popcorn, etc.	Full	1 ,	2 No
Bakery, traditional	Grocery food	Reduced	3 No
Medications	Non-prescription over-the-counter Products Medicines such as aspirin, cough drops, etc. that qualify	Full	
Prescription items that qualify as tax exempt		No	
1	Taxed at full rate because items are mixed or combined by seller and/or heated by seller, or utensils are sold with items.		
2	Taxed at full rate because items are sold with utensils (plate, knife, fork, spoon, glass, cup, etc.)		
3	Assumes items are sold without utensils (plate, knife, fork, spoon, glass, cup, etc.)		
4	Restaurant tax of up to 1.00 percent where imposed. As of July 2008, imposed on food and beverages.		

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Additional Information

See [Publication 25, Sales and Use Tax General Information](#).

You may also call the Tax Commission at (801) 297-7705 or toll free at 1-800-662-4335 ext. 7705 or email to taxmaster@utah.gov.

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Definitions

Bundled Transactions

The retail sale of two or more separate products sold for one combined price.

If any part of the bundled transaction is taxable, the entire transaction is taxed (unless the seller keeps separate records of the tax-exempt part of the transaction).

Drug

A compound, substance, or preparation used to diagnose, cure, mitigate, treat, or prevent disease or to affect the structure or function of the human body.

Grocery Food

Substances sold for ingestion or chewing by humans for taste or nutrition. Grocery food does not include alcoholic beverages, tobacco or prepared food.

Grocery food includes items sold without eating utensils by a food maker (other than a bakery and tortilla maker), items sold singly and unheated by weight or volume, and bakery items (bagel, bar, biscuit, bread, bun, cake, cookie, croissant, danish, donut, muffin, pastry, pie, roll, tart, torte or tortilla). A container or packaging used to transport food is not considered an eating utensil.

Prepared Food

- Food sold in a heated state or heated by a seller.
- Two or more food ingredients mixed or combined by the seller for a single sale.
- Food sold with an eating utensil provided by the seller (plate, knife, fork, spoon, glass, cup, napkin, or straw, etc.).

Prepared food does not include:

- food that a seller only cuts, repackages, or pasteurizes
- raw eggs, raw fish, raw meat, raw poultry, or a food containing these items if the Food and Drug Administration (FDA) advises buyers to cook the items to prevent food borne illness.

Purchase Price and Sales Price

The total value for which tangible personal property, products transferred electronically or services are sold, leased or rented. Purchase price and sales price include:

- the seller's cost of the tangible personal property, products transferred electronically or services;
- the seller's expenses, including:
 - the cost of materials,
 - labor cost,
 - service cost,
 - interest,
 - a loss,
 - the cost of transportation to the seller, and
 - tax (including federal excise tax) imposed on the seller; and
 - charges by the seller for any service necessary to complete the sale.

Purchase price and sales price do not include:

- delivery charges;
- installation charges;

- cash discounts or discount terms offered to buyers;
- coupons that are not reimbursed by a third party; or
- the following, if separately stated on an invoice, bill of sale or similar document given to the buyer:
 1. the amount of a trade-in;
 2. interest, financing and carrying charges for credit extended on the sale of tangible personal property, products transferred electronically or services; and
 3. a tax or fee legally imposed directly on the buyer.

Restaurant

A retail establishment whose business is the sale of food and beverages for immediate consumption. The definition of "restaurant" does not include theaters, but does include dinner theaters. See Utah Code §59-12-602.

Exception: In counties that impose the tourism tax, it does not apply to food sales from deli areas, pizza take-out counters or salad bars within a grocery store or convenience store whose primary business is the sale of fuel or food not prepared for immediate consumption. These sales are exempt from the tourism tax even if the store has seats or stools for customers. However, if a grocery or convenience store has a full-service restaurant, the tourism tax is due on sales in that restaurant.